



# Memorandum

**TO:** HONORABLE MAYOR  
AND CITY COUNCIL

**FROM:** PAUL KRUTKO  
LARRY LISENBEE

**SUBJECT:** SEE BELOW

**DATE:** March 10, 2008

Approved

Date

3/10/08

**COUNCIL DISTRICT:** # 5

**SUBJECT: ACTIONS RELATED TO THE MEXICAN HERITAGE PLAZA,  
INCLUDING MEXICAN HERITAGE CORPORATION**

## RECOMMENDATION

That the City Council accept the following recommended actions regarding the Mexican Heritage Plaza (MHP), and Mexican Heritage Corporation (MHC), that include:

(a) Actions related to developing a new management future for MHP:

- (1) A non-governmental agency, in conjunction with other community, philanthropy and corporate leaders, will convene and coordinate with other community organizations regarding the formation of a steering committee(s) for the purpose of the development of a Business Plan to achieve the Community Cultural Center vision proposed by the City's consultants.

(b) Actions related to stabilize and transition the management of MHP so the facility continues to be accessible to serve the community:

- (1) The Maintenance, Utilities and Facility Leasing Event Services function for MHP will be transitioned from MHC to the City beginning on or about April 1, 2008. This transition period will extend through June 30, 2008, with the City assuming full responsibility July 1, 2008; and

- (2) That the Administration include in the FY 2008-09 Proposed Budget for City Council consideration, funding in the amount \$450,000 for maintenance and utilities and \$360,000 for facility leasing and event services for a total of \$810,000 for General Services for the purposes of providing services at MHP, partially offset by estimated event revenues of \$300,000, for a net funding amount of \$510,000.
- (c) Actions related to transitioning MHC into a new role while the non-profit stabilizes its financial situation:
- (1) Adoption of a resolution authorizing the City Manager to negotiate and execute an agreement with MHC for a term not to exceed fifteen months and compensation not to exceed \$350,000 to provide transitional funding based on benchmarks to help defray a portion of the costs associated with MHC's operating costs;
  - (2) Adoption of a resolution authorizing the City Manager to negotiate and execute an amendment to the loan agreement and promissory note with MHC in order to incorporate a challenge grant to give MHC the opportunity to reduce the outstanding balance owed on its loan with the City, which is currently \$500,000, by two dollars for each dollar raised by MHC between April 1 and December 1, 2008 and subsequently by one dollar for each dollar raised thereafter; and
  - (3) That an amount not to exceed \$50,000 for the purposes of Technical Assistance to MHC be provided including requirements for the use.
- (d) Actions that support the Mariachi Festival occurring in 2008:
- (1) That an amount of \$100,000 for the marketing of the Mariachi Festival be provided to MHC for the September 2008 event, shared equally by the Redevelopment Agency and the City.
- (e) Adoption of the following 2007-2008 Appropriation Ordinance Amendments in the General Fund:
- (1) Establish the Mexican Heritage Plaza Maintenance and Operations appropriation in City-Wide Expenses to the General Services Department in the amount of \$215,000;
  - (2) Establish the Mexican Heritage Corporation Transition appropriation in City-Wide Expenses to the City Manager's Office in the amount of \$350,000;
  - (3) Establish the Mexican Heritage Corporation Technical Assistance appropriation in City-Wide Expenses to the City Manager's Office in the amount of \$50,000;
  - (4) Decrease the Contingency Reserve by \$665,000;
  - (5) Transfer to the Redevelopment Agency for the Mariachi Festival of \$50,000.

### **OUTCOME**

The outcomes of implementing these recommendations will result in a transitional process designed to stabilize the Plaza operations and achieve the vision for the Mexican Heritage Plaza as a Community Cultural Center with a new non-profit model. In addition there is the provision of transitional support to assist MHC as they refocus their efforts by providing programming not only at MHP but within the community in a financially sustainable manner. The actions recommended relate to the following key outcomes:

- developing a new management future for MHP;
- stabilization and transition of the facility management of MHP so it continues to be accessible to serve the community;
- providing support to encourage the transition of MHC into a new role as the non-profit stabilizes their financial situation; and
- providing marketing support to assist the Mariachi Festival occurring in 2008.

### **BACKGROUND**

The MHP and MHC have been the subject of study and community attention with the following key preceding events leading to the discussion at the Rules and Open Government Committee meeting of March 5, 2008:

- April 2000 the City Auditor's Report regarding MHC was presented to Rules;
- August 2007 the MHP Community Visioning Day was hosted by Mayor Reed and Councilmember Campos;
- January 2008 the MHP Consultant Assessment Report on the highest and best uses was presented to Rules; and in
- February 2008 a Community Discussion Session on the future of MHP was held.

At the March 5, 2008 Rules Committee meeting Staff received direction to provide further detailed recommendations based on Option #2 described in the February 21, 2008 memorandum. This option relates to the vision for the MHP to become a Community Cultural Center with a new non-profit model as detailed in the MHP consultant assessment.

This Option contemplates (i) the City assuming the functions of maintenance and utilities, facility rentals and leasing on a transitional basis; (ii) the formation of a steering committee(s) as convened by a non-profit organization(s); (iii) transitional, and performance-based funding to

assist MHC in strengthening its balance sheet, while providing additional working capital and technical assistance; and (iv) marketing and advertising funding for the Mariachi Festival.

It should be noted that, subsequent to the March 5, 2008 Rules Committee meeting, MHC put forward a request to the City for transitional funding in the amount of \$700,000. The City's recommended transitional funding, including the technical assistance component, is \$400,000. Staff has sized the transitional funding support in consideration of providing the appropriate balance to (i) strengthen MHC's balance sheet to allow it, among other things, to more effectively fund raise; (ii) provide the required support for the upcoming Mariachi Festival; and (iii) provide working capital through the transition period.

It is recognized that MHC's success with the \$400,000 level of funding will require a significant revamping of MHC's current administrative cost structure, business and programming model to align with available revenues. In order to transition effectively into its new role, MHC will need to adopt the income-based budgeting practices highlighted in MHP Assessment of Optimal Uses authored by Maribel Alvarez.

## **ANALYSIS**

Based on the analysis detailed in the February 21, 2008 memorandum to the Rules and Open Government Committee that was discussed at Rules on March 5, 2008, it has been determined that the current operational and funding model for MHP and MHC is not sustainable and that to achieve the vision recommended in the MHP consultant assessment report for the MHP to become a Community Cultural Center, a new governance, operational and funding model needs to be implemented.

While the transition to a Community Cultural Center is the aspired-to goal, transition steps are required to develop the capacity and community engagement to achieve this vision.

There are also many recommendations that relate to providing transition funding support for MHC. The City recognizes the contributions and value of this non-profit and by financially assisting MHC to focus on becoming a programming entity in the community while not remaining as the operator of the MHP, the strengths of this organization can potentially be preserved. The MHC has acknowledged that providing the operations and maintenance at the MHP has created financial difficulty for them. The recommendations regarding MHC provide transition funding so that the organization can restructure their focus; technical assistance funding so that MHC can engage the expertise they need to develop their Strategic/Business Plan based on their new model; and funding to support the marketing efforts related to the popular Mariachi Festival.

The key transition components detailed in Option #2 of the February 21, 2008 Rules memorandum and included in these recommended actions are the following:

- **City Serving as Facility Operator:** The City, on a transitional basis, will provide for Maintenance and Utilities (M&U) Services and Facility Leasing and Event Services through the General Services Department. During this transitional period, programming is achieved through various organizations bringing programming (“reactive” programming) to the Plaza that is scheduled and coordinated at the Plaza by General Services. Reactive programming can be further described in that the existing RAPs along with MHC will be encouraged to schedule programs in addition to any other organization that is interested in leasing the MHP for a use; it does not mean that the City will develop a program plan and implement programming directly. Facility leasing will also occur that allows community, corporate or non-profit bookings of a more private or invitation only use.

To help ensure success with minimal disruption in service delivery, staff will engage MHC as an active participant in the transition efforts so that the M&U, and Facility Leasing and Event Services functions are smoothly transitioned while MHC becomes established as a RAP, allowing MHC some office and facility use. At the same time, staff will continue to collaborate with the current existing RAPs to ensure that they remain informed during this period of transition.

Staff envisions the MHP open and operational 7-days a week from 8:00 a.m. to 10:00 p.m. in conjunction with active programming. Staff realizes that this overall approach needs to be in alignment with that of the contemplated Steering Committee(s). Until this committee has been formed, staff will maintain and operate the facility in a collaborative manner with all building tenants and users.

- **Creation of Steering Committee(s) to Develop Business Plan:** The City’s involvement in the Plaza’s M&U and Facility Leasing and Event Services stabilizes the situation at the Plaza, but does not by itself guarantee the full realization of the Community Cultural Center vision. This next step will require community leadership to create an achievable, sustainable Business Plan to achieve the vision—including proactive cultural programming at the MHP funded by a variety of sources.

Staff recommends that a credible, non-governmental community organization convene a Steering Committee of leaders to create a Business Plan for the MHP in consultation with community members and experts. The Business Plan process should be led, funded, and completed by civic leaders—not by government; it could be initiated by a convening community organization with a modest amount of philanthropic investment.

To be successful, the Steering Committee would benefit from members with a variety of skills and experience (or otherwise accessing this expertise through the Business Plan process): nonprofit management, cultural facilities management, Latino arts/culture/heritage, arts education, philanthropy, community engagement, nonprofit accounting/finance, business planning. The Steering Committee(s) should include several community representatives, and the Business Plan process should include an opportunity for people and groups that attended the August 2007 Community Visioning

Day and the February 2008 Community Outreach Session to stay engaged in the process. Committee members should be acting in their work as responsible long-term stewards of the MHP. City Staff believe that the Steering Committee should be cautious about including on its core team organizations who have a direct interest in the specific outcomes of the Business Plan, though these organizations should certainly be consulted extensively.

A small nominating task force could be created immediately to compile nominations for the Steering Committee(s) members, and recommend a slate for approval by the board of the convening organization.

The Business Plan would outline the following:

- Necessary steps for rebuilding and retaining the MHP connection to the community.
- The desired programming mix at the MHP, and the specific plan to achieve this.
- The revenue sources for MHP programming—individual giving, institutional philanthropy, earned income, corporate grants/sponsorships—and the specific plan to realize this revenue.
- A recommendation about whether the City should retain its role in MHP Maintenance and Leasing/Events Services, or if another specific model should be pursued for these functions (i.e., nature of a new ‘operator’).
- A specific, attainable pro forma budget for any new organizational operating model proposed.

Having this Business Plan in place and supported by the community is a pre-requisite to building a sustainable funding base for the “MHP as Community Cultural Center”. The Steering Committee could consider establishment of a charitable endowment fund to begin receiving initial contributions in support of the MHP.

By investing in building the Plaza Facility and taking responsibility for Maintenance, Utilities and Leasing/Event services, staff believes that local government has set a stage for civic leaders to take responsibility for adding the proactive programming function.

- **MHC Transition Support:** It is recommended that the City provide transitional funding for MHC over a period not to exceed a fifteen months as MHC evolves from the MHP operator to its new role focusing on programming at the MHP, as well as within the community. During all the discussions it was noted how important the Mariachi Festival is to the community with most of the event related activities occurring in venues other than the MHP; supporting the Mariachi Festival during the transition is a key component of the recommendations. The focus of this funding support, taken within the context of

the City's General Fund situation, is to assist MHC in (i) strengthening its balance sheet; (ii) providing working capital and technical assistance support through the transition period; and (iii) providing required support for the Mariachi Festival.

The transition funding support package for MHC consists of the following funding elements:

- **Transitional Funding** will be provided to MHC commencing on or about April in the amount of \$350,000 from the City's General Fund. These amounts will be performance-based and conditioned upon each installment *not* exceeding a pre-defined percentage of MHC's combined personal and non-personal administrative budget.

In addition, these payments will be conditioned upon MHC's implementation of the before-mentioned technical assistance plan; and that MHC remain in good standing with all applicable laws, regulations and other contractual and financial requirements entered into by MHC with the City and other third parties. A priority use for these funds will be to assist MHC in paying off past due accounts payable to the extent that any past due amounts are indeed owed, not written off, reduced or otherwise formally deferred or restructured by the vendor(s) in question.

- **Resolution of Interest Free Loan:** In order to strengthen MHC's capacity to raise funds, the City will engage MHC in a challenge fund to reduce the outstanding balance owed on its loan with the City, which is currently \$500,000, by two dollars for each dollar raised by MHC between April 1 and December 1, 2008 and subsequently by one dollar for each dollar raised thereafter.
- **Mariachi Festival Funding:** In recognition of the Mariachi Festival an amount of \$100,000 for the September 2008 event will be funded for the purposes of marketing. The funding for this event will be shared 50/50 with the City of San José Redevelopment Agency with the Agency administering the grant agreement including requirements for performance and expenditure documentation.
- **Technical Assistance Funding** will be provided to MHC in an amount not to exceed \$50,000. MHC will present to the City a Technical Assistance Plan no later than May 15, 2008 for City Review. It is anticipated that the Technical Assistance will center upon strengthening MHC's internal policies, systems and staffing capacity in the following areas:
  - Development of Strategic/Business Plan to define new Business Model
  - Financial and Accounting Statement Preparation and Review
  - Development of Internal Auditing/Quality Control and Assessment Protocols
  - Assistance in resolving and streamlining its accounts payable and accounts receivable accounts, policies and systems
  - Budget Preparation and Tracking Systems

## **EVALUATION AND FOLLOW-UP**

It is anticipated that informational memoranda would be periodically released to the Mayor and City Council to provide updates on the progress of these efforts and that this information would be shared with the community. Evaluation and follow-up will also occur in developing an agreement with MHC that provides a funding plan for transition with benchmarks for performance as a key evaluation tool and a requirement for releasing payments.

As previously requested, staff will continue to evaluate and complete a facility use assessment regarding the usage types and capacity for single and simultaneous events at the MHP. As the assessment progresses through the transition period, the nature of the past, current and proposed programming at the MHP will be better understood. This effort will allow staff to work towards maximizing the programming and space use of the MHP facilities.

## **POLICY ALTERNATIVES**

***Alternative # 1:** One alternative is to not provide transitional funding to MHC.*

**Pros:** Not providing this funding would save City resources at a time when the budget is significantly impacted with other needs including the need to support the MHP M&U and Facility Leasing and Event Services directly.

**Cons:** The MHC is seen as a potentially viable non-profit that if restructured could become a more valuable programmer for not only MHP but within the Community.

**Reason for not recommending:** This is not recommended given that the MHC as the current operator of the MHP needs some assistance as they transition their role and continue to develop their capacity as a non-profit providing cultural programming within the community.

***Alternative # 2:** One alternative is to provide \$700,000 of transitional funding to MHC as per their request.*

**Pros:** Providing this funding would acknowledge MHC's request and their analysis of need for funding during this transition period.

**Cons:** Not giving MHC the level of funding they request could result in MHC not being able to complete their transition to a programmer at MHP and within the community.

**Reason for not recommending:** The amount of \$700,000 would be a significant increase of funding over the \$413,783 the City has been annually appropriating MHC as the operator of the MHP. The MHC has indicated that they can raise money for programming but not MHP related expenses. With the recommendations put forth in this memo MHC should be positioned to focus on programming and fund development activities.



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### **PUBLIC OUTREACH/INTEREST**

The public has been significantly engaged throughout all the stages of discussion regarding MHP and MHC with many interviews and focused groups held as the consultant reports were developed in addition to the Mayor and District 5 Council Office hosting two community sessions. Additional details are provided in the Rules memo as referenced.

### **COORDINATION**

This memorandum has been coordinated with the City Attorney's Office, San José Redevelopment Agency, Arts Commission and the General Services Department.

### **COST SUMMARY**

As indicated in recommendation a) General Services will, begins a 90-day transition period, working with MHC to transfer responsibility for the maintenance and utilities and facility leasing and event services function for MHP beginning April 1, 2008. This will require funding for the remainder of FY 2007-08 (April thru June) of \$115,000 for M&U related expenses and \$100,000 for Facility Leasing and Event Services. This amount will be used both for direct City expenses and reimbursements to MHC for expenses related to M&U and Facility Leasing and Event Services incurred during the 90-day transition. Event-related lease fees may offset a portion of the \$215,000 appropriation, but until a transition is implemented with MHC, this amount is unknown.

For FY 2008-09, General Services will require an estimated \$450,000 for M&U and an additional \$360,000 for Facility Leasing and Event Services. This amount of \$810,000 will be partially offset by an estimated \$300,000 in lease related income making the annual net budget effect total \$510,000. General Services will bring forward the overall staffing and operations plan as part of the budget discussions for FY 2008-09.

This staffing and operations plan will be informed by General Services' work with existing MHC staff assigned to M&U and Facility Leasing and Event Services functions during the transition period. This will allow General Services to have a full understanding of the current staffing model and determine what changes might be useful and which City classifications will be needed. To the extent that new classifications are consistent with MHC positions and duties, and that there is mutual interest in current MHC employees continuing their work at the MHP with the City as an employer, General Services will explore with Human Resources processes for hiring those employees that comply with the City's Civil Service rules and procedures.

Funding considerations for MHC transition related efforts are detailed above in the Analysis section.

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**BUDGET REFERENCE**

The table below identifies the fund and appropriation proposed to fund the agreements recommended as part of this memorandum.

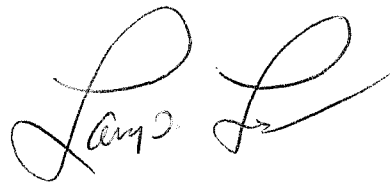
Fund #	Appn #	Appn. Name	Total Appn	Amount For Project	2007-2008 Adopted Operating Budget	Last Budget Action (Date, Ord. No.)
001	8901	Contingency Reserve	\$30,403,642	\$615,000	Page IX-33	10/16/07 28156
001	0005	Transfer to the Redevelopment Agency: Mariachi Festival	\$50,000	\$50,000	Page IX-29	10/16/07 28143
<b>Total</b>			<b>\$30,453,642</b>	<b>\$665,000</b>		

**CEQA**

Not a project.



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For questions please contact Mignon Gibson, at (408) 535-8171.